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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 16 April 2003 from the Permanent Representative of Paraguay to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you herewith, in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), the report of the Government of Paraguay, in accordance with paragraph 6 of Security Council resolution 1455 (2003), of 17 January 2003.

(*Signed*) Eladio **Loizaga**
Ambassador
Permanent Representative

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Annex to the letter dated 16 April 2003 from the Permanent Representative of Paraguay to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Paraguay on resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Following the events of 11 September 2001, controls, monitoring and analysis of the financial system and the bank transfers of accounts possibly linked to these and other individuals were strengthened. There have been no indications of unusual or suspicious transactions to date, with the exception of those relating to persons accused of terrorist activities, whose cases are currently being tried.

In the Three Frontiers area, a geographical region which might pose a higher risk of threats from fundamentalist groups because of its location, monetary, economic, financial and banking activities are monitored by the normal monitoring and supervisory bodies (the Central Bank, through the Superintendence of Banks, and the Secretariat for the Prevention of Money- or Property-Laundering (SEPRELAD)) and Act 1015 of 1997 is strictly applied to persons required to report unusual or suspicious transactions, in coordination with the Financial Crimes Investigation Unit of the National Anti-Drug Secretariat (SENAD). Priority is thus given to the collection of evidence by means of operational mechanisms and to the ensuing need for the implementation of monitoring mechanisms on an ethical and factual basis.

The SEPRELAD database is subject to ongoing review and monitoring through a comparison of its contents with the lists provided by national and international organizations (International Criminal Police Organization (INTERPOL), the Financial Crimes Enforcement Network (FINCEN) and SENAD).

The Superintendence of Banks (SIB) has issued circulars aimed at detecting any transaction by the various entities or individuals on the 1267 Committee's List and has requested that any available funds be frozen and that the SIB be informed of any future transactions.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The executive branch responded to the events of 11 September by adopting administrative measures aimed at halting the escalation of terrorism. A draft anti-terrorism act was elaborated and is currently under consideration by the National Congress.

In addition, the Committee's lists are circulated to the financial system, consisting of banks, financial institutions and exchange houses, with a request for information on any direct or indirect transactions by the listed individuals or entities, in accordance with article 102 of Act 861, under which all State agencies are required to provide cooperation when so requested by the Superintendence of Banks, pursuant to the provisions of Act 1015, as regulated by resolution 2, record 84, dated 2 May 1997.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

The Government has not encountered any problems with implementation with regard to the List.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No listed individuals or entities have been identified in Paraguayan territory.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

The national authorities have not recorded any data on individuals who should be included in the List, taking into account the characteristics required.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No proceedings have been instituted in Paraguayan courts against the Paraguayan authorities by listed individuals or entities.

It should be noted that following the 11 September terrorist attacks, five Lebanese citizens in Paraguay were tried and, in some cases, sentenced. The various cases are outlined below:

- *Sobhi Mahmoud Fayad*: a naturalized Paraguayan of Lebanese origin. Sentenced in a public oral proceeding to six and a half years' imprisonment for the punishable offences of tax evasion and violation of the obligation to keep commercial records. The convicted person had recorded a number of cash remittances abroad, especially to Lebanon, with natural persons as beneficiaries. Nevertheless, the remittances could not be linked to terrorist organizations, nor, apparently, did the defendant have any links to Usama bin Laden, Al-Qaida or the Taliban.
- *Saleh Mahmoud Fayad*: a naturalized Paraguayan of Lebanese origin, brother of the above. Sentenced in an abbreviated trial to two years' imprisonment with suspension of the sentence for the punishable offence of tax evasion. No links could be established between the convicted person and terrorist organizations, much less Usama bin Laden, Al-Qaida or the Taliban.
- *Mazen Ali Saleh*: a Lebanese citizen with a permanent residence card. Sentenced in an abbreviated trial to two years' imprisonment with suspension

of the sentence for the punishable offence of tax evasion. No links could be established between the convicted person and terrorist organizations, much less Usama bin Laden, Al-Qaida or the Taliban.

- *Ali Hassan Abdallah*: a naturalized Paraguayan of Lebanese origin. Accused of the punishable offence of tax evasion; currently a fugitive and declared in contempt of court. No links could be established between the convicted person and terrorist organizations, much less Usama bin Laden, Al-Qaida or the Taliban.

- *Assad Ahmad Barakat*: a naturalized Paraguayan of Lebanese origin. Accused of tax evasion, vindication of the crime and criminal association. Currently subject to an extradition order issued by a Brazilian court; nonetheless, the order has been suspended pending substantiation of his claim for refugee status filed with the Brazilian National Commission for Refugees (CONARE). No links could be established between the convicted person and terrorist organizations, much less Usama bin Laden, Al-Qaida or the Taliban. While the surname Barakat appears in the List, nothing matches the other data on Assad Ahmad Barakat.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No listed individuals or entities have been identified in Paraguayan territory as having applied for permanent or temporary residence in the country.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

There is no record of the existence of Al-Qaida training camps in the country. In any event, the National Police undertake preventive and investigative actions to prevent the entry of listed individuals, especially in what are considered high-risk areas, primarily the triple frontier shared by Argentina, Brazil and Paraguay.

III. Financial and Economic Assets Freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

*** the domestic legal basis to implement the asset freeze required by the resolutions above;**

The domestic legal basis for the asset freeze exists within the framework of seizure and forfeiture of assets, as provided for in articles 86 to 96 of the Penal Code. Accordingly, it lies solely within the authority of the judicial branch, through the competent courts.

*** any impediments under your domestic law in this context and steps taken to address them.**

No new measures of restraint have been authorized by new legal and regulatory bodies.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Central Bank of Paraguay, the entity entrusted with supervising, monitoring and inspecting the money, financial and economic markets, has issued resolutions aimed at identifying financial networks linked to suspicious activities.

By means of resolution 9, of 6 October 2001, it requires all supervised entities (banks, exchange houses, financial institutions) to maintain a code of conduct which lays the groundwork for a rapid and effective identification of unusual or suspicious financial activities. In accordance with Act 1015 of 1997, it reaffirms the obligation to report any suspicious activity to SEPRELAD.

SEPRELAD operates in complete harmony with its investigation and research bodies, such as the Financial Crimes Investigation Unit of SENAD and the body entrusted with supervision and monitoring of the banking, financial and credit markets under the authority of the Superintendence of Banks, in the preparation, investigation and analysis of cases which are rationally believed to show signs of money-laundering or related offences.

Since July 2002 by Executive Decree the SEPRELAD Financial Analysis Unit has been reporting to the Public Prosecutor's Office, so as to strengthen its role and achieve results in a judicial framework.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Act No. 1015 requires obligated subjects to report any unusual or suspicious activities to SEPRELAD, in accordance with article 14 thereof, entitled "Obligation to identify clients". Under article 14, obligated subjects must register clients and verify their identity beyond any doubt, whether or not they are regular clients, when the business relationship is first established, in addition to determining how many

individuals are to be involved. Under article 15 of the Act, entitled "Means of identification", which stipulates that identification shall consist in confirmation of identity, the form of representation claimed, domicile, and occupation or the purpose of the legal entity, as appropriate.

In its resolution No. 1, of November 2001, the Superintendence of Banks requires financial institutions to implement the Code of Conduct for the Prevention and Identification of Money-Laundering and Other Financial Crimes and Offences, whose key paragraphs require subjects to have a Code of Conduct; to introduce institutional policies to prevent money-laundering and other financial crimes and offences; to identify, evaluate and report individuals and organizations on the OFAC list; to have an enforcement officer; to identify, evaluate and report on the companies with which they do business; and to report on any unusual or suspicious activities to SEPRELAD and the Analysis Unit of the Central Bank of Paraguay.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **identification(s) of the person or entities whose assets have been frozen;**
- **a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **the value of assets frozen.**

There is nothing to report in this connection because there are no frozen assets of listed individuals or entities. It should be noted, furthermore, that in Paraguay confiscation of assets is a judicial and not an administrative matter.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

There is nothing to report in this connection because there are no frozen assets of listed individuals or entities. It should be noted, furthermore, that in Paraguay confiscation of assets is a judicial and not an administrative matter.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial instituflons of the restrictions placed upon individuals or entities listed by**

the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

In Paraguay, a wide range of entities is required to report on unusual or suspicious activities and such reporting thus goes well beyond the conventional financial market. For example, under article 13 of Act No. 1015/97, reporting is required of cooperatives, investment firms, mutual funds, real estate companies, businesses that buy and sell jewels, precious metals and stones, coins and works of art, foundations and commercial gambling concessions.

These obligated subjects must report suspicious activities to SEPRELAD. The conventional financial market uses forms issued by the Central Bank of Paraguay that call for details on individuals, links, amounts, transfers and the purpose of operations involving amounts of more than $10,000.

In the case of suspicious activities under article 12 (b) of Act No. 1015/97, the amount in question may not be so high owing to division into smaller amounts in order to escape certain obligations and avoid identification, registration and reporting requirements.

Reports are analysed, evaluated and investigated, and if there is enough evidence to suggest that a follow-up investigation is necessary, operations are coordinated with those of other organizations, such as SENAD and SIB, and perhaps also the Ministry of the Interior, for the purposes of presentation of the case by the Public Prosecutor's Office, which is the judicial entity responsible for the investigation and possible indictment.

As to restrictions or regulations with respect to the movement of precious commodities such as gold, diamonds and other related items, such matters are not within the competence of the Superintendence of Banks; the Directorate-General of Customs has jurisdiction over such matters.

Lastly, with respect to restrictions or regulations applicable to alternate remittance systems such as — or similar to — *hawala*, as well as charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes, SIB circular No. 39/2003 specified that entities intending to send currency (bank notes and coins) abroad must send a communication, in a sealed envelope with 48 hours' notice, to the Superintendence of Banks and the Department of Economic Crimes at the Central Bank of Paraguay,

once they have complied with the accounting requirements and Act No. 1015. To that end, they must fill out a single form known as the Transaction Report, which constitutes a sworn statement. The report contains such details as the following: date, currency, amount, name of sender (including by whose order and on whose behalf), who is responsible for transporting the currency and for what purpose, its city of destination and to whom it is to be credited (all of which must be specified). The entities concerned thus make a sworn statement that the currency to be remitted has resulted from lawful activities connected with their line of business.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Migration Office has set up the National Migration Control System, which can be used to transmit information over the Internet to all Paraguayan border checkpoints. The purpose of the system is to inform border offices of all judicial matters, including prohibitions on individuals leaving the country and prohibitions on individuals expelled from Paraguay re-entering the country. This same method is used for circulating updated United Nations lists in order to prevent listed individuals from entering Paraguay or, failing that, to detain such individuals so that legal proceedings may be brought against them.

With respect to administrative measures, it should be noted that self-adhesive visas are being introduced in order to improve the services provided by consular offices. The system being set up will enable our embassies and consulates to make the visa-issuing process uniform. In addition, optical scanners will be acquired for officials who check visas, both at the Ministry of Foreign Affairs and at border checkpoints.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

All names of listed individuals have been included in Paraguay's border checkpoint list, which is used by police and immigration officers.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The United Nations lists are transmitted to the relevant administrative authorities as soon as they are received by the Ministry of Foreign Affairs, for consideration and inclusion at entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

The Paraguayan immigration authorities have not identified any listed individuals at any Paraguayan border points or in transit in Paraguay.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

Visa issuance is the direct responsibility of consular officials. The Passport and Consular Services Office of the Ministry of Foreign Affairs monitors the issuance of entry visas by embassies and consular offices on a daily and monthly basis (upon receipt of relevant reports, by facsimile or e-mail).

In the case of applications involving the entry of nationals of States with which Paraguay does not maintain diplomatic or consular relations, visas may be granted only on the basis of express authorization of the administrative authority with specific responsibility for that purpose (the Passport and Consular Services Office) or of the Minister for Foreign Affairs, the Deputy Minister for Foreign Affairs or the Deputy Minister for Administration and Technical Matters. This rule is an effective security measure for the registration and control of the entry of aliens into the country.

With regard to the United Nations List, the Passport Office has investigated whether listed individuals have been granted visas and has found that no listed individuals have been granted Paraguayan visas.

The Ministry of Foreign Affairs periodically transmits the updated United Nations List to its consular offices, for updating of the database.